

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DISH NETWORK L.L.C.,

Plaintiff,

V.

HUNG TRAN and THI NGA NGUYEN,  
individually and together d/b/a Easybox  
IPTV,

Defendants.

Civil Action No. 4:19-cv-2994

**Plaintiff's Application for Clerk's Entry of Default  
Against Defendants Hung Tran and Thi Nga Nguyen**

Pursuant to Fed. R. Civ. P. 55(a), Plaintiff DISH Network L.L.C. (“DISH”) respectfully requests that the Clerk enter default against Defendants Hung Tran (“Tran”) and Thi Nga Nguyen (“Nguyen”) with regard to the allegations in DISH’s First Amended Complaint (Dkt. 12).

Tran and Nguyen are residents of Vietnam. (Dkt. 12 ¶ 3.) Vietnam is a signatory to the Hague Convention. *See generally Status Table*, Hague Conference on Private Int'l Law (Dec. 17, 2019), <https://www.hcch.net/en/instruments/conventions/status-table/?cid=17> (listing member States). “Article 10(a) [of the Hague Convention] provides that, as long as the receiving state does not object, the Convention does not interfere with . . . the freedom to serve documents through postal channels.” *Water Splash, Inc. v. Menon*, 137 S.Ct. 1504, 1513 (2017). Pursuant to the Hague Service Convention, “service by mail is permissible if two conditions are met: first, the receiving state has not objected to service by mail; and second, service by mail is authorized under otherwise-applicable law.” *Id.*

Vietnam has not objected to service by mail, and in fact authorizes service by mail “if the documents forwarded via postal channels are sent via registered mail with acknowledgment of

receipt.” *Declarations of Vietnam*, Hague Conference on Private Int’l Law (Dec. 30, 2019), <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=1337&disp=resdn>.

Persons who may effect service under Vietnamese law include postal service organization officers, the parties and their representatives. (Declaration of Stephen M. Ferguson ¶ 3, Ex. 1 at ch. X, art. 172.) Modes of service include (1) directly; (2) by post office; (3) by authorized third person; (4) by electronic means; (5) by public posting; and (6) by announcement on mass media. (*Id.* Ex. 1 at ch. X, art. 173.) Thus, service by mail is authorized under otherwise-applicable Vietnam law.

On December 7, 2019, both Tran and Nguyen were served with a summons, DISH’s First Amended Complaint (Dkt. 12), Order for Conference (Dkt. 4.), and Order Resetting Conference (Dkt. 11) by first class registered mail with acknowledgment of receipt. (Dkts. 18, 19.) Service in this manner was proper under Fed. R. Civ. P. 4(f)(2)(A) because service by post office is authorized by Vietnam’s law for service in an action in its courts.

Tran and Nguyen were required to file a responsive pleading within 21 days of being served, which was December 30, 2019. *See* Fed. R. Civ. P. 12(a)(1)(A)(i). To date, neither Tran nor Nguyen have filed an answer or other responsive pleading or requested additional time to do so. (Declaration of Stephen M. Ferguson ¶ 4.) Neither Tran nor Nguyen are minors, incompetent, or exempt under the Servicemembers’ Civil Relief Act. (*See id.* ¶¶ 5-7, Exs. 2-3 (must be at least 18 years old to have a PayPal account); Dkt. 12 ¶¶ 1, 3, 12-31 (Resident of Vietnam and copyright infringement).) Accordingly, the Clerk should enter default against Tran and Nguyen.

Dated: December 31, 2019

Respectfully submitted,

HAGAN NOLL & BOYLE LLC

By: /s/ Stephen M. Ferguson

Stephen M. Ferguson (attorney-in-charge)

Texas Bar No. 24035248

Southern District of Texas Bar No. 614706

Two Memorial City Plaza  
820 Gessner, Suite 940  
Houston, Texas 77024  
Telephone: (713) 343-0478  
Facsimile: (713) 758-0146

Joseph H. Boyle (of counsel)  
Texas Bar No. 24031757  
Southern District of Texas Bar No. 30740

Counsel for Plaintiff DISH Network L.L.C.